IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 16153 of 1998

Between:

The Andhra Bank Farmers Services co-op Society

E.F.130, Kathipudi, rep., by its Managing Director T.Nageswarara Rao,

S/o Raja Rao, R/o Kathipudi, Shankaravam Mandal,

East Godavari District.

..... PETITIONER

AND

1.Chairman and Presiding Officer,

Industrial Tribunal cum Labour Court,

Visakhapatnam.

2. P.Atchuta Rama Rao

C/o A.Sitaramulu, 3-6-36,

Narasingaraopeta, Anakapalli, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ or direction more particularly7 one in the nature of writ of Certiorari calling for the records pertaining to award in I.A.No.332 of 1994 dated 18-03-1998 on the file of Industrial Tribunal cum Labour Court, Visakhapatnam and quash the same illegal, arbitrary and pass such other order or orders as this Hon'ble Court may deem fit or proper in the circumstances of the case.

Counsel for the Petitioner:MR.S.NARASIMHA RAO

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent No.2: MR.A. SREENIVAS SARMA

The Court made the following :

ORDER:

This writ petition is filed challenging the award dated 18.3.1998 in I.D.No.332 of 1994 on the file of the Chairman cum Presiding Officer, Industrial Tribunal cum Labour Court, Visakhapatnam, wherein, the workman/respondent No.2 herein was directed to be reinstated with continuity of service and 25% back wages.

Admittedly, the respondent No.2 had put in only 384 working days prior to his termination from service on 31.10.1987. No notice as required under Section 25F of the Industrial Disputes Act, 1947 (for short "the Act") was issued. Therefore, the Labour Court has rightly found that the termination of the respondent No.2 was contrary to the provisions of Section 25F of the Act. But, while directing the reinstatement of the petitioner, the labour Court has awarded 25% back wages.

In this regard, the learned Counsel for the petitioner submits that the respondent No.2 had hardly worked for about a year, before 31.10.1987, and that against the termination order dated 31.10.1987, the respondent No.2/workman had preferred an appeal before the Shops and Establishment Authority with a delay of five years. However, he withdrew the same and after more than 2 ½ years after such withdrawal, he raised an Industrial Dispute in I.D.No.332 of 1994 on 19.09.1994. Therefore, the finding of the Labour Court that, even if the workman approached the Labour Court with some delay, the back wages cannot be denied to the fullest extent, was not warranted in the circumstances of the case.

Insofar as the reinstatement of the respondent No.2 with continuity of service is concerned, no interference can be made by this Court. However, in view of the fact that the workman had approached the Shops and Establishments Authority on 08-01-1992 i.e., after about more than five years from the date of his termination and even after withdrawing the said petition from the Shops and Establishments

Authority on 08-01-1992, he did not immediately raise dispute under Section 2A(2) of the Act. Therefore, I am of the considered opinion that the Labour Court was not right in awarding 25% of the back wages to the respondent No.2. Therefore, the writ petition is allowed and the award is set aside to the extent of awarding 25% back wages to the second respondent by the Labour Court and as such the award of the Labour Court is liable to be modified as under:

The respondent/management is directed to reinstate the workman with continuity of service but without back wages and without any attendant benefits.

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26-07-2004

Jsu

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the Twenty Sixth day of July, two thousand and four.

To

1. Chairman and Presiding Officer, Industrial Tribunal cum Labour Court, Visakhapatnam.

2.2CCs to the G.P. for Labour, High Court Buildings, Hyderabad.(OUT)

3.2CD copies